

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:19-po-112

- vs -

Magistrate Judge Michael R. Merz

MISTY FLANNERY,

Defendant.

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**DISMISSAL ORDER**

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On April 2, 2019, an agent of the United States Air Force issued a Citation to Defendant for driving while under suspension (ECF No. 1). The Citation was filed in this Court on July 31, 2019, and the Court issued Defendant a Notice to Appear for initial appearance on August 14, 2019. The Notice was returned with a notation that Defendant was no longer at the address to which it had been mailed. When Defendant did not appear as ordered, then-Magistrate Judge Michael J. Newman issued a warrant for Defendant's arrest which remains outstanding (ECF No. 4).

On September 16, 2020, Judge Newman issued an Order to the United States to Show Cause why this case should not be dismissed for want of prosecution. The Government's Response reads in full:

Now comes the United States, by and through counsel, to respectfully show cause for the continued prosecution of the attached cases. Following the *sua sponte* review and Order to Show Cause by this Honorable Court, the United States conducted a

thorough examination of each of the attached cases. Due to the recent date of the allegations, the public safety concerns the offenses create, and/or the severity of the offenses in each and every matter, it is the United States' intention to proceed with the prosecution of these cases. It is therefore the request of the United States that the Court permit the cases to proceed as docketed and, while it is within the Court's discretion to withdraw the previously issued capias warrants, we respectfully request those remain intact, as well.

(ECF No. 6). On November 13, 2020, Judge Newman took the oath of office as a United States District Judge and Chief Judge Marbley has accordingly transferred this case to the undersigned (ECF No. 7).

As is apparent from its content, the Government's Response is purely *pro forma*. Indeed, it is a verbatim copy of the Government's Response in *United States v. Long*, 3:18-cr-153. While the United States proclaims its intention to prosecute, it makes no showing of any effort to do so since the Information was filed, including any effort to execute the outstanding arrest warrant.

The United States has not shown good cause as ordered by Judge Newman. Accordingly, this case is dismissed for want of prosecution and the arrest warrant is quashed. The dismissal is without prejudice because it appears to the Court that the statute of limitations has not expired. 18 U.S.C. § 3282. If the United States intends to proceed with prosecution, it may file a new Information and Court will, upon a showing of probable cause, issue a warrant for the Defendant's arrest.

The Clerk shall remove the restrictions on public access to filed documents in this case.  
November 27, 2020.

s/ *Michael R. Merz*  
United States Magistrate Judge